

224.80-110 Environmental covenants and corrective action plans -- Powers of cabinet to review, approve, or deny -- Existing rights, duties, and protections not affected by environmental covenants -- Definition of "holder" -- When covenant deemed created.

- (1) Any person that owns an interest in a real property subject to an environmental response project as defined in KRS 224.80-100(6) as of July 1, 2005, may utilize an environmental covenant as part of a corrective action plan submitted to the cabinet for review and approval.
- (2) The cabinet shall review and shall approve or deny the environmental covenant, or request additional information as part of its review of a corrective action plan submitted pursuant to KRS 224.01-400, 224.01-405, 224.46-530 and 224.01-450 to 224.01-465. The cabinet shall review the environmental covenant and determine whether:
 - (a) The real property is eligible for an environmental covenant under KRS 224.80-100 to 224.80-210;
 - (b) The environmental covenant is complete;
 - (c) The environmental covenant is protective of human health, safety, and the environment under KRS 224.01-400, 224.01-405, 224.01-510 to 224.01-532, 224.46-530, and 224.01-450 to 224.01-465; and
 - (d) The person proposing the environmental covenant has published, through public notice, a notification identifying by legal description and address the property that is being considered for an environmental covenant, the intent to place an environmental covenant on the property, and a list of interest holders of record.
- (3) In addition to other conditions for the approval of an environmental covenant, the cabinet may require those persons specified by the cabinet who have an interest in the real property to sign the covenant.
- (4) The cabinet may deny an environmental covenant for reasonable grounds, including a determination that the covenant does not protect human health or the environment. The cabinet shall specify in writing, the grounds for denying the environmental covenant.
- (5) Any person, including the cabinet, that signs an environmental covenant or amendment thereto shall be required to fulfill the obligations and responsibilities prescribed to him or her in the environmental covenant or amendment. The cabinet's act of signing the environmental covenant shall be deemed an approval of an environmental covenant. Nothing contained in this subsection shall modify or deny any existing duties, rights, or protections granted under law, except as explicitly and legally provided for in the environmental covenant.
- (6) If the environmental covenant is approved and signed in accordance with this subchapter, those parties meeting the requirements in subsection (7) of this section shall be deemed holders. The environmental covenant shall be deemed created.
- (7) A holder may be:
 - (a) Any person, including a person that owns an interest in the real property; or

- (b) A governmental body empowered to hold an interest in real property under the laws of this state or of the United States.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 92, sec. 2, effective June 20, 2005.